

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	
	§	
BLACK ELK ENERGY OFFSHORE	§	CASE No. 15-34287 (MI)
OPERATIONS, LLC	§	
	§	
DEBTOR.	§	CHAPTER 11
	§	
RICHARD SCHMIDT, LITIGATION TRUSTEE,	§	
	§	
PLAINTIFF,	§	
	§	
VS.	§	
	§	ADVERSARY No. _____
PLATINUM PARTNERS VALUE ARBITRAGE	§	
FUND LP, PLATINUM PARTNERS CREDIT	§	
OPPORTUNITIES MASTER FUND LP, PLATINUM	§	
PARTNERS LIQUID OPPORTUNITIES MASTER	§	
FUND LP, PPVA BLACK ELK (EQUITY) LLC,	§	
NEW MOUNTAIN FINANCE CORP., WHITE ELK	§	
LLC, AND PLATINUM MANAGEMENT (NY),	§	
LLC	§	
	§	
DEFENDANTS.		

DECLARATION OF CRAIG SMYSER

I, Craig Smyser, hereby declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am trial counsel for the Trustee. This Declaration is made in support of the concurrently filed Complaint and the Emergency Application for Preliminary Injunctive Relief, Including an Emergency Motion for a Temporary Restraining Order and Request for Hearing.

2. The Trustee has withheld exhibits and redacted the pleadings of significant information because Platinum or third-parties have marked documents Confidential. The Trustee does not agree to these Confidential designations, but has withheld and redacted the obviously

non-public information of Platinum or third-parties, which does not involve Black Elk, until the issue can be addressed with the Court.

3. Exhibit 1 is a true and correct copy of Black Elk's July 16, 2014, Offer to Purchase and Consent Solicitation Statement.

4. Exhibit 2 is a true and correct copy of a June 26, 2014 email from John Hoffman to Anna Marizza Piche, among others.

5. Exhibit 3 is a true and correct copy of Black Elk's December 31, 2013 Form 10-K.

6. Exhibit 4 is a true and correct copy of excerpts of the June 1, 2016 Testimony of John Hoffman.

7. Exhibit 5 is a true and correct copy of a July 22, 2014 email from Jeff Shulse to Daniel Small, with an additional undated email, and a March 7, 2014 email.

8. Exhibit 6 is a true and correct copy of Black Elk's September 30, 2014 Form 10-Q.

9. Exhibit 7 is a true and correct copy of the July 10, 2014 Purchase and Sale Agreement By and Between Black Elk and Renaissance Offshore, LLC.

10. Exhibit 8 is a true and correct copy of the May 1, 2014, Renaissance Sale Closing Statement.

11. Exhibit 9 is a true and correct copy of the December 31 2014, BDO Class E Unit PIK Testing Summary.

12. Exhibit 10 is a true and correct copy of a June 5, 2015 letter from Richard Roth to the SEC.

13. Exhibit 11 is a true and correct copy of a February 6, 2014 email from Mark Nordlicht to John Hoffman, copying Anny Marizza Piche.

14. Exhibit 12 is a true and correct copy of a March 3, 2014 email from Jeff Shulse to Daniel Small, Anna Marizza Piche, John Hoffman, David Levy, Daniel Small, and Mark Nordlicht.

15. Exhibit 13 is a true and correct copy of a March 3, 2014 email chain Mark Nordlicht, Daniel Small, Jeff Shulse, Anna Marizza Piche, John Hoffman, and David Levy.

16. Exhibit 14 is a true and correct copy of a July 17, 2014 email chain between Jeff Shulse and Brent Boudreaux.

17. Exhibit 15 is a true and correct copy of an August 8, 2014 Platinum Partners Value Arbitrage Fund L.P. Officer's Certificate.

18. Exhibit 16 is a true and correct copy of the August 19, 2014 Second Supplemental Indenture of Black Elk and Black Elk Energy Finance Corp., as Issuers, Black Elk Energy Land Operations, LLC, as Guarantor.

19. Exhibit 17 is a true and correct copy of the Complaint and Demand for Trial by Jury in *Bankers Consecro Life Insurance Company and Washington National Life Insurance Company v. Moshe M. Feuer, Scott Taylor, and David Levy*, Case No. 1:16-cv-07646-ER, dated September 29, 2016.

20. Exhibit 18 is a true and correct copy of a July 13, 2014 chain involving from John Hoffman, David Levy, and Mark Nordlicht.

21. Exhibit 19 is a true and correct copy of a November 25, 2014 email chain involving Daniel Small, Jeff Shulse, and B Asset Manager, with attached draft Modification Agreement.

22. Exhibit 20 is a true and correct copy of the Securities Purchase and Put Agreement between New Mountain Finance Holdings, LLC and Platinum Equity and PPVAF and Chardan Capital Markets LLC, dated May 3, 2013.

23. Exhibit 21 is a true and correct copy of a draft Note Purchase Agreement between Northstar Offshore and the entities listed in Schedule 1, dated January 7, 2015.

24. Exhibit 22 is a true and correct copy of a November 25, 2014 email from Daniel Small to Jeff Shulse, copying David Levy.

25. Exhibit 23 is a true and correct copy of the Loan Purchase and Sale Agreement between White Elk and PPVABE Equity and Resources Value Group LLC, and the Beechwood purchasers, and B Asset Manager, dated February 20, 2014.

26. Exhibit 24 is a true and correct copy of the Omnibus Assignment and Assumption of Loans, Loan Documents and Related Liens and Security Interests and Appointment of Agent, dated February 20, 2014.

27. Exhibit 25 is a true and correct copy of the Note for \$16,593,445 issued by Black Elk to BRe WNIC 2013 LTC Primary, dated February 20, 2014.

28. Exhibit 26 is a true and correct copy of the Note for \$448,278 issued by Black Elk to Be BCLIC SUB, dated February 20, 2014.

29. Exhibit 27 is a true and correct copy of a Bloomberg listing for Platinum Management, dated October 23, 2016.

30. Exhibit 28 is a true and correct copy of a BNY Mellon Black Elk Note Chart, dated August 13, 2014.

31. Exhibit 29 is a true and correct copy of the article “The top-performing hedge fund manager that’s too hot for big money to handle,” Thomsonreuters.com, dated April 13, 2016.

32. Exhibit 30 is a true and correct copy of a May 16, 2014 email chain from Daniel Small to Jeff Shulse and David Levy, with prior emails from Philip Cutler at Nomura to Nicholas Marzella at Platinum.

33. Exhibit 31 is a true and correct copy of a July 9, 2014 memo from John Hoffman to Black Elk Energy Employees.

34. Exhibit 32 is a true and correct copy of a July 9, 2014 email chain between Mark Nordlicht and John Hoffman.

35. Exhibit 33 is a true and correct copy of a July 14, 2014 email chain involving John Hoffman, Anna Marizza Piche, and Jack Wisdom, forwarding prior email involving John Hoffman, Mark Nordlicht and David Levy.

36. Exhibit 34 is a true and correct copy of a June 27, 2014 email chain involving John Hoffman and Mark Nordlicht, with a prior email from John Hoffman to David Levy.

37. Exhibit 35 is a true and correct copy of a July 2, 2014 email chain involving Art Garza and Mark Nordlicht, copying a multitude of Black Elk employees.

38. Exhibit 36 is a true and correct copy of Black Elk’s July 16, 2014 Form 8-K.

39. Exhibit 37 is a true and correct copy of an August 12, 2014 email chain involving Daniel Small, David Levy, and Jeff Shulse, with prior emails from outside counsel, and a draft B Asset Manager consent.

40. Exhibit 38 is a true and correct copy of an August 13, 2014 Consent to Sale by Borrower of Certain Oil and Gas Properties to Renaissance Offshore, LLC.

41. Exhibit 39 is a true and correct copy of an August 14, 2014 Black Elk Press Release.

42. Exhibit 40 is a true and correct copy of Black Elk's August 15, 2014 Form 8-K.

43. Exhibit 41 is a true and correct copy of excerpts of a Black Elk Amegy Bank Statement, dated August 29, 2014.

44. Exhibit 42 is a true and correct copy of an August 18, 2014 email chain involving Mark Nordlicht, David Levy, Daniel Small and Jeff Shulse.

45. Exhibit 43 is a true and correct copy of a May 20, 2014 email chain involving Mark Nordlicht, Daniel Small, David Levy and John Hoffman.

46. Exhibit 44 is a true and correct copy of excerpts of the Sworn Statement of Jeffrey Shulse, dated May 24, 2016.

47. Exhibit 45 is a true and correct copy of an August 27, 2014 email from Jeffrey Shulse to Daniel Small.

48. Exhibit 46 is a true and correct copy of Docket No. 246, Statement of Financial Affairs, dated September 30, 2015.

49. Exhibit 47 is a true and correct copy of Black Elk's September 19, 2014, Form 8-K/A.

50. Exhibit 48 is a true and correct copy of an August 18, 2014 email chain involving Jeff Shulse, Shade Itiowe, Mark Nordlicht, Daniel Small, Samuel Salfati, and David Levy.

51. Exhibit 49 is a true and correct copy of an August 18, 2014 email chain involving Jeff Shulse, Shade Itiowe, Daniel Small, and Samuel Salfati.

52. Exhibit 50 is a true and correct copy of an August 20, 2014 email chain involving Keith Hubbard, John Hoffman, Shade Itiowe, and Keith Hubbard, with a prior email from Naftali Manela to Joseph SanFilippo, copying Mark Nordlicht and David Levy.

53. Exhibit 51 is a true and correct copy of a July 21, 2014 email from Karen Somma on behalf of Marilyn Maloney to a number of Black Elk employees and managers.

54. Exhibit 52 is a true and correct copy of an August 19, 2014 email chain Jeff Shulse to Shade Itiowe, with prior emails involving Samuel Salfati and Daniel Small.

55. Exhibit 53 is a true and correct copy of the June 1, 2015 Resignation Letter of Clifford Joseph Bruno.

56. Exhibit 54 is a true and correct copy of a May 27, 2014 letter from John Hoffman to Northstar Offshore Group LLC.

57. Exhibit 55 is a true and correct copy of a June 25, 2014 email chain from Anna Marizza Piche to John Hoffman, with additional emails involving Marilyn Maloney and Jeff Shulse.

58. Exhibit 56 is a true and correct copy of a B Asset Manager June 5, 2014 letter from David Levy to John Hoffman.

59. Exhibit 57 is a true and correct copy of a B Asset Manager June 27, 2014 letter from David Levy to John Hoffman.

60. Exhibit 58 is a true and correct copy of a June 27, 2014 email chain from Mark Nordlicht to Jeff Shulse, copying Daniel Small, David Levy and Linda Sellers, responsive to a prior Shulse email.

61. Exhibit 59 is a true and correct copy of the Purchase and Sale Agreement by and Between Black Elk as Seller and Northstar Offshore Group, LLC as Purchaser, dated January 9, 2015.

62. Exhibit 60 is a true and correct copy of a December 19, 2014 email from Daniel Small to Ken Schott and others, copying David Levy and Samuel Salfati.

63. Exhibit 61 is a true and correct copy of a January 28, 2014 email chain from Daniel Small to Daniel Mandelbaum, and others, without attachments, and prior emails regarding the exchange agreement.

64. Exhibit 62 is a true and correct copy of a draft January 2015 Exchange Agreement between Platinum and the Beechwood entities, and Northstar Offshore.

65. Exhibit 63 is a true and correct copy of a March 31, 2015 letter from Jeffrey Shulse to S. Glynn Roberts, Northstar Offshore Group, LLC.

66. Exhibit 64 is a true and correct copy of a putative Purchase and Sale Agreement by and Between TKN Petroleum Holdings, LLC as Seller and TKN Petroleum Offshore, LLC as Purchaser, dated May 5, 2015.

67. Exhibit 65 is a true and correct copy of the September 16, 2013, Put Agreement between PPVAF and Resources Value Group LLC.

68. Exhibit 66 is a true and correct copy of excerpts of bank statements of Capital One with respect to PVA Black Elk Cayman Ltd.

69. Exhibit 67 is a true and correct copy of a January 7, 2014 email chain involving Mark Nordlicht and John Hoffman, copying Daniel Small and David Levy.

70. Exhibit 68 is a true and correct copy of Schedule 13D of China Cablecom, Ltd., dated January 1, 2011.

71. Exhibit 69 is a true and correct copy of a Statement of Changes in Beneficial Ownership, dated May 18, 2015.

72. Exhibit 70 is a true and correct copy of an undated PPVAF PowerPoint regarding E&P Ventures.

73. Exhibit 71 is a true and correct copy of a February 4, 2014 email from Mark Nordlicht to John Hoffman, Jeff Shulse, Daniel Small, David Levy, and David Ottensoser.

74. Exhibit 72 is a true and correct copy of the Complaint in *United States of America v. Norman Seabrook and Murray Huberfeld*, Case No. 16 MAG 3626, dated June 7, 2016.

75. Exhibit 73 is a true and correct copy of the Indictment in Case No. 16 MAG 3626, dated June 7, 2016.

76. Exhibit 74 is a true and correct copy of the article “Adviser with Ties to Hedge Fund Platinum Put Client Funds in It,” The Wall Street Journal, dated September 17, 2016.

77. Exhibit 75 is a true and correct copy of the Unanimous Written Consent of the Managers of Black Elk Energy Offshore Operations, LLC, dated July 14, 2014.

78. Exhibit 76 is a true and correct copy of redacted excerpts of a Black Elk Amegy Bank Wire Statement, dated August 29, 2014.

79. Exhibit 77 is a true and correct copy of a June 3, 2014 email chain from David Ottensoser to Anna Marizza Piche, copying David Levy, with an attached Second Amendment to the Securities Purchase and Put Agreement.

80. Exhibit 78 is a true and correct copy of an August 5, 2014 email chain from Daniel Small to Jeff Shulse, copying other Platinum executives, and attaching a Third Amendment to the Securities Purchase and Put Agreement.

81. Exhibit 79 is a true and correct copy of the Fourth Amendment to the Securities Purchase and Put Agreement between New Mountain Finance Corporation and PPVA BE Equity, PPVAF, and others, dated July 15, 2014.

82. Exhibit 80 is a true and correct copy of an October 13, 2014 email chain from Jeff Shulse to Daniel Small, with prior emails involving Mark Nordlicht, David Levy, and Steve Fuerst.

83. Exhibit 81 is a true and correct copy of the Minutes of the Black Elk Energy Offshore Operations, LLC Board of Directors Meeting, dated February 6, 2015.

84. Exhibit 82 is a true and correct copy of a June 30, 2014 email from John Boylan to Jeff Shulse, copying Eric Feighl.

85. Exhibit 83 is a true and correct copy of a July 9, 2014 email from John Boylan to Jeff Shulse, copying Eric Feighl.

86. Exhibit 84 is a true and correct copy of an August 7, 2014 email from John Boylan to Jeff Shulse, copying Eric Feighl.

87. Exhibit 85 is a true and correct copy of a February 10, 2015 email from Steve Fuerst to Daniel Small, copying Jeff Shulse, Samuel Salfati, and David Levy.

88. Exhibit 86 is a true and correct copy of a March 12, 2015 email from John Boylan to Jeff Shulse.

89. Exhibit 87 is a true and correct copy of the Second Amendment to the Securities Purchase and Put Agreement between New Mountain Finance Holdings, LLC and PPVA BE Equity, PPVAF and others, dated May 23, 2014.

90. Exhibit 88 is a true and correct copy of the putative Purchase and Sale Agreement by and Between Black Elk Energy Offshore Operations, LLC as Seller and TKN Petroleum

Holdings, LLC and its wholly owned subsidiary, Medius Energy, LLC as Purchaser, dated December 31, 2014.

91. Exhibit 89 is a true and correct copy of a July 21, 2015 email chain from Zach Weiner to Jed Latkin.

92. Exhibit 90 is a true and correct copy of the Black Elk Indenture dated November 23, 2010.

93. Exhibit 91 is a true and correct copy of Black Elk's First Supplemental Indenture, dated as of May 31, 2011.

94. Exhibit 92 is a true and correct copy of the Security Agreement, dated as of November 23, 2010.

95. Exhibit 93 is a true and correct copy of the Fifth Amendment to Second Amended and Restated Operating Agreement of Black Elk, dated as of April 9, 2013.

96. Exhibit 94 is a true and correct copy of Black Elk's February 12, 2013 8-K.

97. Exhibit 95 is a true and correct copy of Black Elk's February 14, 2013 8-K.

98. Exhibit 96 is a true and correct copy of the Third Amendment to Second Amended and Restated Operating Agreement of Black Elk, dated as of January 25, 2013.

99. Exhibit 97 is a true and correct copy of the Sixth Amendment to Second Amended and Restated Operating Agreement of Black Elk, dated as of May 3, 2013.

100. Exhibit 98 is a true and correct copy of the Second Amended and Restated Operating Agreement of Black Elk, dated as of July 13, 2009.

101. Exhibit 99 is a true and correct copy of Black Elk's September 15, 2014 8-K.

102. Exhibit 100 is a true and correct copy of a July 3, 2014 email chain between George Tappin and Jeff Shulse, with a prior email from James Durbin to George Tappin.

103. Exhibit 101 is a true and correct copy of a July 16, 2014 email chain from Jeff Shulse to Daniel Small and David Levy, attaching a prior email exchange with Moody's and the July 16, 2014 Black Elk press release regarding the Offer to Purchase and Consent Solicitation.

104. Exhibit 102 is a true and correct copy of the October 21, 2015 Bloomberg article entitled "No Blow Up Is Big Enough to Tarnish Platinum Partners' Returns."

105. Exhibit 103 is a true and correct copy of the October 19, 2016 Wall Street Journal article titled "Platinum Partners' Flagship Hedge Fund Files for Bankruptcy."

106. Exhibit 104 is a true and correct copy of a June 8, 2016 press release by the United States Attorney's Office titled "Norman Seabrook, President of Correction Officers' Benevolent Association, Arrested for Demanding and Accepting Bribes in Exchange for Investing Union Money in New York-Based Hedge Fund."

107. Exhibit 105 is a true and correct copy of a Reuters article dated June 22, 2016 and titled "Platinum Partners raided by federal agents amid dual investigations."

108. Exhibit 106 is a true and correct copy of a Wall Street Journal article, dated July 25, 2016 and titled "Fraud Probe Ricochets Through Platinum Partners, a Hedge Fund with Ties to Jewish Community."

109. Exhibit 107 is a true and correct copy of a *Reuters* article dated July 20, 2016 and titled "Platinum Partners to liquidate two main funds amid government probes."

110. Exhibit 108 is a true and correct copy of an excerpt from a June 16, 2016 hearing in the *New Mountain Finance Corp. v. Platinum Partners Value Arbitrage Fund, LP* case.

111. Exhibit 109 is a true and correct copy of a June 14, 2016 Wall Street Journal article titled "Platinum Partners to Unwind Main Hedge Fund Amid Kickback Probe."

112. Exhibit 110 is a true and correct copy of an October 18, 2016 Parris Investments Limited Petition in the Matter of the Platinum Partners Value Arbitrage Fund (International) Ltd. in the Grand Court of the Cayman Islands, No. 16-12925, Document 2-1.

113. Exhibit 111 is a true and correct copy of an August 23, 2016 Winding Up Petition in the Matter of the Platinum Partners Value Arbitrage Fund (International) Ltd. in the Grand Court of the Cayman Islands, No. 16-12925, Document 2-1.

114. Exhibit 112 is a true and correct copy of an August 23, 2016 Winding Up Order in the Matter of the Platinum Partners Value Arbitrage Fund (International) Ltd. in the Grand Court of the Cayman Islands, No. 16-12925, Document 2-1.

115. Exhibit 113 is a true and correct copy of an August 29, 2016 Order in the Matter of the Platinum Partners Value Arbitrage Fund (International) Ltd. in the Grand Court of the Cayman Islands, No. 16-12925, Document 2-1.

116. Exhibit 114 is a true and correct copy of an October 18, 2016 Chapter 15 Petition for Recognition of a Foreign Proceeding, with attached United States Bankruptcy Court for the Southern District of New York Verified Petition filing.

117. Exhibit 115 is a true and correct copy of an August 11, 2016 Bloomberg article titled "Platinum's California Oil Fields Said to Be Subject to Probe."

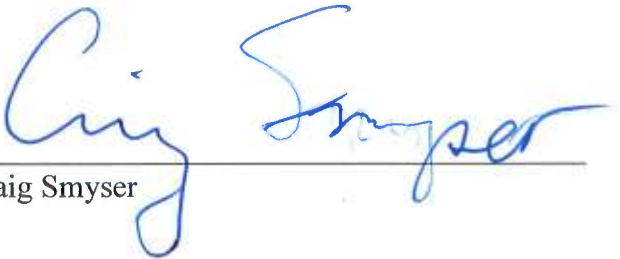
118. Exhibit 116 is a true and correct copy of an October 7, 2016 Reuters article titled "Hedge Fund Platinum Partners to Pay Back Fraction of What Firm Owes."

119. Exhibit 117 is a true and correct copy of an August 26, 2016 article titled "Appointment of Cayman liquidator adds pressure to Platinum Partners."

120. Exhibit 118 is a true and correct copy of a Platinum executed Modification Agreement, dated November 25, 2014.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 25, 2016.


Craig Smyser